

CRIMINAL REVISION APPLICATION NO. 12 OF 2004.

Santosh Naik,
s/o Narayan Naik,
major in age,
Satinganwado, Khorlim,
Mapusa, Goa. ... Applicant.

Versus

S T A T E
Through the Public Prosecutor. ... Respondent.

Shri S.G. Bhobe, Advocate for the Applicant.

Shri S.N. Sardessai, Public Prosecutor for the
State/Respondent.

CORAM: N. A. BRITTO, J.

DATE: 16TH JULY, 2004.

ORAL JUDGMENT:

Heard Shri S.G. Bhobe, the learned counsel on behalf of the applicant/accused and Shri S.N. Sardessai, the learned Public Prosecutor on behalf of the respondent/State.

2. The accused was prosecuted by the State on the allegation that on 11.7.2001 at about 10.00 hrs. the accused having entered the shop of Shri Arun Tendulkar caused damage to four jars and broke eggs and thereby committed offences punishable under Sections 336, 427, and 506 (II) I.P.C.

3. The learned J.M.F.C., Mapusa convicted and

sentenced the accused only under Sections 336 and 427 I.P.C. The accused preferred an appeal against the said conviction and sentence to the learned Sessions Judge, being Criminal Appeal No.23/2003 and the learned Sessions Judge was pleased to partly allow the said appeal and maintain the conviction and sentence against the accused only under Section 427 I.P.C. was concerned. The learned Sessions Judge acquitted the accused under Section 336 I.P.C.

4. In the present revision filed by the accused which is sought to be assailed is the applicability of Section 427 I.P.C. on the ground that the prosecution had failed to prove the value of the goods or articles damaged by the accused belonging to the said informant P.W.1 Arun Tendulkar.

5. With the assistance of the learned counsel of the accused, I have perused the evidence of the said informant P.W.1 Arun and P.W.2 Dastagir who was a panch witness to the said scene of offence panchanama. The matter of applicability of Section 427 I.P.C. has been considered at length by the learned Sessions Judge in para 4 of the judgment. Both the courts below have presumably accepted the value given by the said P.W.1 Arun that the loss caused to him towards the glass jars was to the tune of Rs.160/- and the loss caused to the

two trays of eggs was Rs.90/-. In other words, the loss caused to the said P.W.1 goes above the value of Rs.250/-. In any event it also must be observed that section 427 provides punishment for causing loss or damage to the amount of Rs.50/- or above. Section 426 I.P.C. by implication will deal with cases when the loss or damage caused will be of the value of Rs.50/- and below. Since both the courts below have accepted the value given by the said P.W.1 Arun and convicted the accused under Section 427 I.P.C., I do not propose to interfere with the said conviction as well as the sentence imposed against the accused.

6. Hence I proceed to dismiss the revision petition.

N. A. BRITTO, J.

sl.